

Virginia Counselors Association

Weekly Legislative Update, January 30, 2010

The second full week of the General Assembly is completed, and it was a very busy week. We began the week with our annual advocacy day at the General Assembly. About 25 counselors (LPCs and school) met in the Library of Virginia prior to the trip to the General Assembly Building for making the rounds to meet with legislators and/or their aides. Thanks to the painstaking labor of Heidi Davis and Vicky Wheeler in putting 140 packets, each legislator received a packet of information about counselors and our areas of interest.

Thanks to all the counselors who came and worked on behalf of the Association!

In our advocacy, we focused on access to mental health services for all individuals and funding for K12 education. Below is the short version of what we addressed:

Access to mental health services for all individuals

- **Support HB 248** (Kilgore) and **SB 65** (Lucas) to update the Code of Virginia for inpatient psychiatric treatment of minors.
- **Support SB 708** (Houck) to conform Virginia's mandated insurance benefits for mental health parity to federal laws on mental health parity.
- **Support SB 260** (Lucas) to remove as a barrier crime misdemeanor assault and battery so that individuals recovering from mental health and/or substance use disorders may serve as direct care providers of adults with similar disorders.
- **Support HJ 89** (O'Bannon) to study options for improving the availability and accessibility of children's mental health services in the Commonwealth.
- **Oppose the closing** of Virginia's only safety net providers of mental health services for children with serious mental illnesses. Keep open the Commonwealth Center for Children and Adolescents and the Adolescent Unit of the Southwestern Virginia Mental Health Institute until alternate children's mental health services providers can be found.

Funding for Virginia's K12 education system: A Constitutional mandate

- **Hold true to Virginia's constitutional provision** (Article VIII, Section 1) that the General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall seek to ensure that an educational program of high quality is established and continually maintained.

Below is our current bill list. You should be able to click on the hyperlinks throughout the list to look at the full text of the bills and see their history and committee assignments and disposition. Those bills that have already been voted out of their house are in **green**. Those that have been struck, passed by, or tabled are ~~struck through~~. Of note are the following:

- HJ 89, Del O'Bannon's bill that would have the General Assembly convene a joint subcommittee to study ways to **improve children's mental health services** in the Commonwealth, failed to be reported out of the House Rules Committee. This is a bill that we were supporting on behalf of the [1in5 kids coalition](#), of which VCA and VSCA are members.
- However, our work on behalf of the 1 in 5 kids coalition continues as we **oppose the closing of the Commonwealth Center for Children and Adolescents and the adolescent unit of the Southwestern Virginia Mental Health Institute**. Stay tuned for a call to action for this advocacy within the next two weeks.
- The **mental health reform bills** that were proposed by the Supreme Court's Mental Health Law Commission are progressing through their respective chambers. Most have been assigned to subcommittees on mental health. These will be heard in the next week.

- We were concerned about the provisions in SB 309 (McDougle) that would have toughened **juvenile laws** so that juveniles would be treated as adults under additional provisions. The bill has been continued until 2011, giving us time to advocate for just treatment of juveniles. This bill was opposed by an initiative titled, "[Don't Throw Away the Key.](#)" You can access their action items by clicking on the link. Essentially the initiative is aimed at keeping juveniles within the juvenile justice system. Become a fan on Facebook.

Since last week, we've added three bills to our watch list. They are [HB 257](#), [SB 528](#), and [SB 529](#).

HB 257 (McClellan) would require the Board of Education to amend its regulations on **homebound instructional services** to include that homebound instruction shall be made available to students based on a certification of need by a licensed clinical social worker or licensed professional counselor. Current regulations provide that certification must be made by a licensed physician or licensed clinical psychologist.

This bill met with some resistance in subcommittee-by legislators and representatives of school boards. The bill was brought forward by an LCSW who had been helping a child with depression. When she sought certification for homebound instruction from a physician, the physician indicated that he would be unable to certify the child because the child was already under treatment and thus he would have been unable to make an accurate diagnosis. As a result of the child's being unable to gain certification for homebound instruction, she missed an entire academic year.

Representatives of the school boards and the Dept of Education believe this was an isolated incident and that the problem is not widespread. The proposed solution—to permit LCSWs and LPCs to certify for homebound instruction—would have opened access to services.

The bill was tabled, in subcommittee. Del McClellan will seek to have the bill heard in full committee this coming week. No action is necessary; if the bill fails to report, attempts may be made to determine the prevalence of this problem and to seek a change in regulations in the Dept of Education.

SB 528 is aimed at changing the educational requirements for a very specific program manager within the Dept of Corrections. The law is unclear about this right now, and the bill seeks to clarify who can direct this program. The bill was heard in full committee on Friday, January 29, 2010, and clearer language is being drafted.

SB 529 would provide that an evaluation for initial determination of whether a prisoner meets the definition of a sexually violent predator may be performed by a licensed professional counselor or licensed clinical social worker. Currently, there is an assessment tool for determining whether a sexual predator may be released from incarceration. In some circumstances, the tool cannot be used, and the current procedure calls for a separate evaluation by a psychiatrist or clinical psychologist. The Dept of Corrections is seeking to add LPCs and LCSWs to the list of qualified evaluators.

This bill is likely to be opposed by the clinical psychologists, and we will be working to advocate for adding LPCs trained and experienced in sexual offender treatment. The bill does not have a date for hearing as of this writing.

Questions? Don't hesitate to contact VCA Lobbyist, Becky Bowers-Lanier at becky@macbur.com.

Mental Health Legislation			
HB 10 - Marshall, R.G. - Health Care Freedom Act; individual's right and power to participate in health care system, etc.	(H) Committee on Commerce and Labor	(H) Subcommittee recommends reporting with amendment(s) (8-Y 2-N)	01/28/10
HB 248 - Kilgore - Psychiatric treatment; revises Psychiatric Inpatient Treatment of Minors Act.	(H) Committee for Courts of Justice	(H) Assigned Courts sub: Mental Health	01/15/10
notes: Consolidates all the children's mental health laws into one section of the Code. Very few substantive changes. Product of the Commission on Mental Health Reform.			
HB 257 - McClellan - Homebound instruction services; Board of Education to amend its regulations.	(H) Committee on Education	(H) Subcommittee recommends laying on the table	01/28/10
HB 345 - Marshall, R.G. - Medicaid; withdrawal upon passage of federal health reform.	(H) Committee on Appropriations	(H) Assigned App. sub: Health and Human Resources	01/19/10
notes: Marshall has a number of bills with a libertarian bent in them. This one would have devastating consequences because we now receive a 50% match on federal funding (well, 58% during ARRA) for Medicaid. I think we should just watch it, no action required.			
HB 662 - Morrissey - Health professions; disciplinary actions.	(H) Committee on Health, Welfare and Institutions	(H) VOTE: --- PASSAGE (94-Y 1-N 1-A)	01/29/10
notes: This is a DHP bill that attempts to clean up administrative processes and increase efficiencies within the Dept of Health Professions. It allows for automatic surrender of license if the charges are a public safety threat. .			
HB 729 - Albo - Involuntary admission; court to enter an order for mandatory outpatient treatment following.	(H) Committee for Courts of Justice	(H) Assigned Courts sub: Mental Health	01/26/10
HJ 89 - O'Bannon - Children's mental health services; joint subcommittee to study option for improving & accessibility.	(H) Committee on Rules	(H) Subcommittee recommends laying on the table	01/28/10
notes: Initiative of the 1in5kids coalition to which VCA belongs. Makes sense to support this.			
HJ 94 - Kilgore - Health care and health care professionals; DHP to study access thereto in Southwest Virginia.	(H) Committee on Rules	(H) Subcommittee recommends incorporating (HJ124-Kilgore)	01/21/10
notes: Probably duplicative of work already being done by the DHP workforce data center.			
SB 63 - Lucas - Involuntary commitment order; reduces length of time a person can appeal to circuit court.	(S) Committee for Courts of Justice	(S) Assigned Courts sub: Mental Health	01/18/10
notes: Recommendation of the Commission on Mental Health Law Reform			
SB 65 - Lucas - Psychiatric treatment; revises Psychiatric Inpatient Treatment of Minors Act.	(S) Committee for Courts of Justice	(S) Assigned Courts sub: Mental Health	01/18/10
notes: See HB 248			

SB 158 - Edwards - Mental health courts; establishes specialized court dockets within existing structure of system.	(S) Committee for Courts of Justice	(S) Assigned Courts sub: Mental Health	01/18/10
notes: LPCs, do you like this?			
SB 260 - Lucas - Mental health and substance abuse providers; background checks.	(S) Committee on Education and Health	(S) Read third time and passed Senate (40-Y 0-N)	01/26/10
notes: This bill corrects the Code and is a recommendation of the Joint Commission on Health Care.			
SB 275 - Whipple - Advance medical directives; clarifies authority.	(S) Committee on Education and Health	(S) Read third time and passed Senate (40-Y 0-N)	01/26/10
notes: This bill provides for technical amendments that are needed based on feedback received from stakeholders during the past year.			
SB 360 - Barker - Involuntary admission; court to enter an order for mandatory outpatient treatment.	(S) Committee for Courts of Justice	(S) Assigned Courts sub: Mental Health	01/18/10
notes: Bill to be studied Jan 21 by the Commission on Mental Health Law Reform legislative task force.			
SB 389 - McDougle - Juveniles; offenses for which juvenile is subject to transfer and trial as an adult.	(S) Committee for Courts of Justice	(S) Continued to 2011 in Courts of Justice (14-Y 0-N)	01/27/10
notes: JustChildren bill.			
SB 423 - Herring - Health care practitioners; exempt from liability when rendering services to patients of clinics.	(S) Committee for Courts of Justice	(S) Assigned Courts sub: Civil	01/22/10
SB 528 - Puller - Prisoners; licensed professional counselors to direct sex offender treatment programs.	(S) Committee on Rehabilitation and Social Services	(S) Referred to Committee on Rehabilitation and Social Services	01/13/10
SB 529 - Puller - Sexually violent predators; evaluation determining whether a prisoner meets definition thereof.	(S) Committee for Courts of Justice	(S) Referred to Committee for Courts of Justice	01/13/10
SB 706 - Houck - Health insurance; coverage for mental health and substance abuse services.	(S) Committee on Commerce and Labor	(S) Referred to Committee on Commerce and Labor	01/22/10
SJ 64 - Miller, J.C. - SOLs; DOE to study feasibility of adding curriculum relating to healthy lifestyle choices.	(S) Committee on Rules	(S) Assigned Rules sub: #1	01/22/10
notes: School counselors?			

School counselors			
HB 76 - Bell, Richard P. - Instructional spending; local school board to report expenditures annually.	(H) Committee on Education	(H) Subcommittee recommends reporting with amendment(s) (4-Y 2-N)	01/28/10
<u>notes</u> : 65% rule.			
HB 96 - Loupassi - Instructional spending; local school board to report expenditures annually.	(H) Committee on Education	(H) Incorporated by Education (HB76-Bell, Richard P.)	01/25/10
<u>notes</u> : 65% rule			
HB 248 - Kilgore - Psychiatric treatment; revises Psychiatric Inpatient Treatment of Minors Act.	(H) Committee for Courts of Justice	(H) Assigned Courts sub: Mental Health	01/15/10
<u>notes</u> : Consolidates all the children's mental health laws into one section of the Code. Very few substantive changes. Product of the Commission on Mental Health Reform.			
HB 257 - McClellan - Homebound instruction services; Board of Education to amend its regulations.	(H) Committee on Education	(H) Subcommittee recommends laying on the table	01/28/10
HB 558 - Tata - Standards of Quality; changes in provisions.	(H) Committee on Appropriations	(H) Assigned App. sub: Elementary and Secondary	01/25/10
<u>notes</u> : Check this one carefully. It came as a recommendation from the Board of Education. Will be referred to House Appropriations.			
HB 581 - Massie - Paraprofessional training; person seeking licensure to obtain certificate in autism disorders.	(H) Committee on Education	(H) Assigned Education sub: #3 Teachers and Admin. Action	01/26/10
HB 898 - Comstock - Instructional spending; local school board to report expenditures annually.	(H) Committee on Education	(H) Incorporated by Education (HB76-Bell, Richard P.)	01/25/10
<u>notes</u> : 65%			
HJ 30 - Purkey - Constitutional amendment; appointment of members of Board of Education (first reference).	(H) Committee on Privileges and Elections	(H) Referred to Committee on Privileges and Elections	01/05/10
<u>notes</u> : Part of Purkey's campaign for governors to be able to stand for a second term and at the same time to have less power while in office. Are school counselors interested in this?			
HJ 89 - O'Bannon - Children's mental health services; joint subcommittee to study option for improving & accessibility.	(H) Committee on Rules	(H) Subcommittee recommends laying on the table	01/28/10
<u>notes</u> : Initiative of the 1in5kids coalition to which VCA belongs. Makes sense to support this.			
SB 389 - McDougle - Juveniles; offenses for which juvenile is subject to transfer and trial as an adult.	(S) Committee for Courts of Justice	(S) Continued to 2011 in Courts of Justice (14-Y 0-N)	01/27/10
<u>notes</u> : JustChildren bill.			
SB 557 - Herring - Triennial census; eliminates three-year requirement, distribution of sales and use tax.	(S) Committee on Education and Health	(S) Incorporated by Education and Health (SB413-Vogel) (15-Y 0-N)	01/28/10

SB 705 - Locke - Taxation, new and increased; additional revenues to be appropriated for funding SOQ.	(S) Committee on Finance	(S) Referred to Committee on Finance	01/22/10
notes: This is the first revenue bill that has been introduced especially to fund the SOQ. It may pass the Senate, but it will go nowhere in the House.			
SB 707 - Houck - Autism Advisory Council; created, report.	(S) Committee on Rules	(S) Referred to Committee on Rules	01/22/10
SJ 64 - Miller, J.C. - SOLs; DOE to study feasibility of adding curriculum relating to healthy lifestyle choices.	(S) Committee on Rules	(S) Assigned Rules sub: #1	01/22/10
notes: School counselors?			